

AMENDED IN ASSEMBLY MARCH 30, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 2588

Introduced by Assembly Member Chu

February 19, 2016

~~An act to amend Sections 103875 and 103885 of the Health and Safety Code, relating to cancer data.~~ *An act to amend Sections 1722, 1751.5, 14000, 14001, 14020, 14022, 14022.5, 14024, 14025, 14028, 14031, 14032, 14038, 14039, 14040, 14042, 14061, 14063, 14064, 14080, 14090.1, 14097, and 14099 of, to add Sections 14025.1 and 14079 to, to repeal Sections 14027, 14030, and 14037 of, and to repeal and add Sections 14010, 14021, 14026, 14029, and 14078 of, the Insurance Code, relating to insurance.*

LEGISLATIVE COUNSEL'S DIGEST

AB 2588, as amended, Chu. ~~Cancer data.~~ *Independent insurance adjusters.*

Existing law, the Insurance Adjuster Act, sets forth various requirements with respect to operation as an insurance adjuster in this state, including, but not limited to, that the person be licensed, licensing qualifications and application requirements, codes of conduct, disciplinary actions, and nonresident and emergency licenses. The act defines the term, "insurance adjuster," to include a person, other than a private investigator, who, for any consideration whatsoever, engages in business or accepts employment to furnish, or agrees to make, or makes, any investigation for the purpose of obtaining, information in the course of adjusting or otherwise participating in the disposal of, any claim under or in connection with a policy of insurance on behalf of an insurer or engages in soliciting insurance adjustment business.

Any person who knowingly falsifies the fingerprints or photographs submitted as part of the application process is guilty of a felony, and any person who violates any other provision governing insurance adjusters is guilty of a misdemeanor punishable by a fine not to exceed \$500, or by imprisonment in the county jail not to exceed one year, or by both that fine and imprisonment.

This bill would revise and recast the above provisions by, among other things, changing the name of the act to the Independent Insurance Adjuster Act and redefining an “independent insurance adjuster” to mean an individual, a business entity, an independent contractor, or an employee of a contractor, who contracts for compensation with insurers, a person whose tax treatment by the insurers is consistent with that of an independent contractor rather than as an employee, and a person who investigates, negotiates, or settles property and casualty claims for insurers. The bill would expand the categories of persons exempt from the act to include, among others, an individual who is employed to investigate suspected fraudulent insurance claims but who does not adjust losses or determine claims payments, and a person who solely performs executive, administrative, managerial, or clerical duties or any combination thereof and who does not investigate, negotiate, or settle claims with policyholders, claimants, or their legal representative. The bill would impose additional information and educational requirements on applicants and would impose additional code of conduct requirements on licensees. The bill would revise the provisions relating to nonresident and emergency licenses with regards to qualifying for those licenses. The bill would also create an apprentice independent insurance adjuster license to facilitate the experience, education, and training necessary to ensure reasonable competency in the responsibilities and duties of an independent insurance adjuster and would set forth the various terms and conditions of the license, including an application fee to be fixed by the Insurance Commissioner and reasonably related to the actual cost to the Department Of Insurance in performing its duties. The bill would make an apprentice independent insurance adjuster subject to a felony conviction if he or she knowingly falsifies the fingerprints or photograph submitted as part of his or her application for a license. The bill would also make conforming changes. Because the bill would create a new crime, it would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state.

Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

~~Existing law requires the State Public Health Officer to establish a statewide system for the collection of information determining the incidence of cancer, as specified. Existing law authorizes the State Department of Public Health to designate any demographic parts of the state as regional cancer incidence reporting areas and establish regional cancer registries to carry out the intent of existing law.~~

~~This bill would require the State Department of Public Health to analyze data collected pursuant to this program to assess, measure, and publicly report on the quality of cancer care in the state, as specified. The bill would require the development of a public reporting system on the quality of cancer care in the state. The bill also would require the department to develop a system for routine, automated linkages between data collected pursuant to the program and public and private health insurance payer cancer claims data, and would require the State Public Health Officer to convene a cancer care stakeholder committee to study and make recommendations for developing the automated linkage system.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: ~~no~~yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1722 of the Insurance Code is amended
2 to read:

3 1722. If a natural person while licensed pursuant to the
4 provisions of this chapter or ~~Chapters~~ Chapter 6 (commencing
5 with Section 1760), 7 (commencing with Section 1800), or 8
6 (commencing with Section 1831) of this part, ~~or Part 5~~
7 (commencing with Section 12140) of Division ~~2~~ 2, or Chapter 1
8 (commencing with Section 14000) of Division 5 enters the military
9 service of the United States and is in ~~such~~ that service at a time
10 prescribed for the filing of a renewal application, the filing of ~~such~~
11 that application is waived, and the license held by ~~such~~ that
12 licensee at the time of his or her entry into military service shall
13 remain in force during the period of ~~such~~ that military service and
14 until the end of the license year in which he or she is released from

1 ~~such~~ that service but not for less than six months after ~~such~~ that
2 release. During ~~such period~~ *such that period*, that person may
3 secure a license of the type held by him or her on his or her entry
4 into military service upon the filing of an application and paying
5 the fee therefor without the necessity of taking any examination
6 or paying any penalty.

7 SEC. 2. Section 1751.5 of the Insurance Code is amended to
8 read:

9 1751.5. The fees required by this chapter and by Chapter 6
10 (commencing with Section 1760), Chapter 7 (commencing with
11 Section 1800), and Chapter 8 (commencing with Section 1831) of
12 this part *and by Chapter 1 (commencing with Section 14000) of*
13 *Division 5* are filing fees, no portion of which shall be refunded
14 whether or not the application is acted upon or the examination is
15 taken.

16 SEC. 3. Section 14000 of the Insurance Code is amended to
17 read:

18 14000. This chapter may be cited as the *Independent Insurance*
19 *Adjuster Act*.

20 SEC. 4. Section 14001 of the Insurance Code is amended to
21 read:

22 14001. As used in this ~~chapter~~: *chapter*, the following terms
23 have the following meanings:

24 (a) *“Catastrophe” means an event that results in a large number*
25 *of deaths or injuries, causes extensive damage or destruction of*
26 *facilities that provide and sustain human needs, produces an*
27 *overwhelming demand on state and local response resources and*
28 *mechanisms, causes a severe long-term effect on general economic*
29 *activity, or severely affects state, local, and private sector*
30 *capabilities to begin and sustain response activities.*

31 ~~(a)~~

32 (b) *“Commissioner” means the Insurance Commissioner.*

33 ~~(b)~~

34 (c) *“Department” means the Department of Insurance.*

35 (d) *“Fingerprints” means an impression of the lines on the*
36 *finger taken for the purposes of identification.*

37 (e) *“Home state” means the District of Columbia and any state*
38 *or territory of the United States in which an independent insurance*
39 *adjuster maintains his, her, or its principal place of residence or*
40 *business and is licensed to act as a resident independent insurance*

1 *adjuster. If the resident state does not license independent*
2 *insurance adjusters, the independent insurance adjuster may*
3 *designate California as his, her, or its home state, provided that*
4 *the independent insurance adjuster is licensed and in good*
5 *standing.*

6 (f) *“Individual” means a natural person.*

7 ~~(e)~~

8 (g) *“Licensee” means a person licensed under this chapter.*

9 ~~(d)~~

10 (h) *“Manager” means the individual under whose direction,*
11 *control, charge, or management the business of a licensee is*
12 *operated.*

13 (i) *“Nonresident” means a person who is not a resident of*
14 *California at the time of the performance of the act referred to in*
15 *Section 14071.*

16 ~~(e)~~

17 (j) *“Person” includes any individual, firm, company, association,*
18 *organization, partnership, limited liability company, and*
19 *corporation.*

20 *SEC. 5. Section 14010 of the Insurance Code is repealed.*

21 ~~14010. The department succeeds to and is vested with all the~~
22 ~~duties, powers, purposes, responsibilities, and jurisdiction~~
23 ~~previously vested in the Bureau of Collection and Investigative~~
24 ~~Services with respect to the licensing of insurance adjusters.~~

25 ~~Any reference to prior licensing shall be deemed to licensing~~
26 ~~under the Private Investigator and Adjuster Act.~~

27 ~~The commissioner shall administer and enforce the provisions~~
28 ~~of this chapter.~~

29 *SEC. 6. Section 14010 is added to the Insurance Code, to read:*

30 *14010. The commissioner shall administer and enforce the*
31 *provisions of this chapter.*

32 *SEC. 7. Section 14020 of the Insurance Code is amended to*
33 *read:*

34 ~~14020. No~~

35 (a) *A person shall not engage in a business regulated by this*
36 *chapter, or act or assume to act as, or represent himself or herself*
37 *to be, a licensee unless he or she is licensed—under as an*
38 *independent insurance adjuster in accordance with this chapter.*

39 ~~No~~

1 (b) A person shall *not* falsely represent that he or she is
2 employed by a licensee.

3 *SEC. 8. Section 14021 of the Insurance Code is repealed.*

4 ~~14021. An insurance adjuster within the meaning of this chapter
5 is a person other than a private investigator as defined in Section
6 7521 of the Business and Professions Code who, for any
7 consideration whatsoever, engages in business or accepts
8 employment to furnish, or agrees to make, or makes, any
9 investigation for the purpose of obtaining, information in the course
10 of adjusting or otherwise participating in the disposal of, any claim
11 under or in connection with a policy of insurance on behalf of an
12 insurer or engages in soliciting insurance adjustment business or
13 aids an insurer in any manner with reference to:~~

14 ~~Crime or wrongs done or threatened against the United States
15 of America or any state or territory of the United States of America;
16 the identity, habits, conduct, business, occupation, honesty,
17 integrity, credibility, knowledge, trustworthiness, efficiency,
18 loyalty, activity, movement, whereabouts, affiliations, associations,
19 transactions, acts, reputation, or character of any person; the
20 location, disposition, or recovery of lost or stolen property; the
21 cause or responsibility for fires, libels, losses, accidents, or damage
22 or injury to persons or to property; or securing evidence to be used
23 before any court, board, officer, or investigating committee.~~

24 ~~Notwithstanding any other provision of law, this section is in
25 no way intended to limit the ability of a duly licensed independent
26 insurance adjuster to perform the duties of an independent
27 insurance adjuster for any other entity.~~

28 *SEC. 9. Section 14021 is added to the Insurance Code, to read:*

29 *14021. An independent insurance adjuster, for purposes of this
30 chapter, is all of the following:*

31 *(a) An individual, a business entity, an independent contractor,
32 or an employee of a contractor, who contracts for compensation
33 with insurers.*

34 *(b) A person whose tax treatment by the insurers is consistent
35 with that of an independent contractor rather than an employee,
36 as defined in Section 3121 of Title 26 of the United States Code.*

37 *(c) A person who investigates, negotiates, or settles property
38 and casualty claims for insurers.*

39 *SEC. 10. Section 14022 of the Insurance Code is amended to
40 read:*

1 14022. This chapter does not apply to: *to any of the following:*

2 ~~(a) A person employed exclusively and regularly by one~~
3 ~~employer in connection with the affairs of such employer only and~~
4 ~~where there exists an employer-employee relationship.~~

5 ~~(b)~~

6 ~~(a) An officer or employee of the United States of America, or~~
7 ~~of this state or a political subdivision thereof, while—such that~~
8 ~~officer or employee is engaged in the performance of his or her~~
9 ~~official duties.~~

10 ~~(e)~~

11 ~~(b) A person engaged exclusively in the business of obtaining~~
12 ~~and furnishing information as to the financial rating of persons.~~

13 ~~(d)~~

14 ~~(c) A charitable philanthropic society or association duly~~
15 ~~incorporated under the laws of this state, which is organized and~~
16 ~~maintained for the public good and not for private profit.~~

17 ~~(e)~~

18 ~~(d) An attorney at law admitted to practice in—performing~~
19 ~~California, when acting in his or her—duties professional capacity~~
20 ~~as such attorney at law: an attorney.~~

21 ~~(f)~~

22 ~~(e) A licensed collection agency or an employee thereof while~~
23 ~~acting within the scope of his or her employment, while making~~
24 ~~an investigation incidental to the business of the agency, including~~
25 ~~an investigation of the location of a debtor or his or her property~~
26 ~~where the contract with an assignor creditor is for the collection~~
27 ~~of claims owed or due or asserted to be owed or due or the~~
28 ~~equivalent thereof.~~

29 ~~(f) An officer, director, manager, or employee of an authorized~~
30 ~~insurer, surplus line insurer, a risk retention group, or an~~
31 ~~attorney-in-fact of a reciprocal insurer.~~

32 ~~(g) Admitted insurers and agents and—A licensed insurance~~
33 ~~brokers licensed by the state, performing duties in connection with~~
34 ~~insurance transacted by them: agent or broker, attorney-in-fact of~~
35 ~~a reciprocal insurer, or managing general agent of the insurer to~~
36 ~~whom claim authority has been granted by the insurer.~~

37 ~~(h) The legal owner of personal property—which that has been~~
38 ~~sold under a conditional sales agreement or a mortgagee under the~~
39 ~~terms of a chattel mortgage.~~

- 1 (i) Any bank subject to the jurisdiction of the Commissioner of
 2 ~~Financial Institutions of the State of California~~ *Business Oversight*
 3 under Division 1 (commencing with Section 99) of the Financial
 4 Code or the Comptroller of the Currency of the United States.
- 5 (j) A person engaged ~~employed~~ *solely in the business of securing*
 6 ~~information about persons to obtain facts surrounding a claim or~~
 7 ~~property from public records.~~ *to furnish technical assistance to a*
 8 *licensed independent insurance adjuster.*
- 9 (k) Any building contractor, engineer, technical expert, or other
 10 person who is engaged by an insurer or licensed *independent*
 11 *insurance* adjuster to provide an expert or professional evaluation
 12 of the extent, cause, or origin of damage to the insured property,
 13 but who does not otherwise participate in the process of adjusting
 14 claims.
- 15 (l) *An individual who is employed to investigate suspected*
 16 *fraudulent insurance claims but who does not adjust losses or*
 17 *determine claims payments.*
- 18 (m) *A person who solely performs executive, administrative,*
 19 *managerial, or clerical duties or any combination thereof and who*
 20 *does not investigate, negotiate, or settle claims with policyholders,*
 21 *claimants, or their legal representative.*
- 22 (n) *A licensed health care provider or its employee who provides*
 23 *managed care if the services do not include the determination of*
 24 *compensability.*
- 25 (o) *A managed care organization or any of its employees who*
 26 *provide managed care services if the services do not include the*
 27 *determination of compensability.*
- 28 (p) *A person who settles only reinsurance or subrogation claims.*
- 29 (q) *A United States manager of the United States branch of an*
 30 *alien insurer.*
- 31 (r) *A person who investigates, negotiates, or settles life, accident*
 32 *and health, annuity, or disability insurance claims.*
- 33 (s) *An individual employee, under a self-insured arrangement,*
 34 *who adjusts claims on behalf of his or her employer.*
- 35 SEC. 11. *Section 14022.5 of the Insurance Code is amended*
 36 *to read:*
- 37 14022.5. (a) In the event of an emergency situation as declared
 38 by the commissioner, claims arising out of the emergency,
 39 catastrophe, disaster, or other similar occurrence may be adjusted

1 by a nonlicensed *independent insurance* adjuster upon registration
2 with the commissioner if all of the following requirements are met:

3 (1) The work performed by the nonlicensed *independent*
4 *insurance* adjuster is under the active direction, control, charge,
5 or management of a licensed *independent insurance* adjuster or
6 an insurer authorized to do business in this state.

7 (2) Registration with the commissioner is accomplished within
8 ~~15~~ *five* working days from the date on which the nonlicensed
9 *independent insurance* adjuster commences the claims adjusting
10 activity in connection with the emergency situation.

11 (b) “Registration,” within the meaning of this section, ~~shall~~
12 ~~mean~~ *means* a written letter to the commissioner, submitted by the
13 supervising licensed *independent insurance* adjuster or admitted
14 insurer, naming the nonlicensed *independent insurance* adjusters,
15 identifying their *independent insurance* adjuster licenses held in
16 other jurisdictions, and stating when their claims adjusting activity
17 commenced.

18 (c) Registration under this section is valid for a period of ~~180~~
19 *90* days from the date of the registration letter. Before the lapse of
20 that period, the commissioner may grant further ~~180-day~~ *90-day*
21 extensions as he or she deems appropriate upon written request
22 from the supervising licensed *independent insurance* adjuster or
23 the admitted insurer.

24 *SEC. 12. Section 14024 of the Insurance Code is amended to*
25 *read:*

26 14024. (a) An *individual* application shall be verified and
27 shall ~~include:~~ *include all of the following:*

28 ~~(a)~~

29 (1) The full *legal* name and ~~business address~~ *business, resident,*
30 *and mailing addresses* of the applicant.

31 ~~(b)~~

32 (2) The name under which *the* applicant intends to do business.

33 (3) *The applicant’s birth date and social security number.*

34 (4) *The application fees set forth in Section 14097.*

35 ~~(e)~~

36 (5) A statement as to the general nature of the business in which
37 the applicant intends to engage.

38 ~~(d)~~

39 (6) A statement as to the ~~classification or~~ *classifications* under
40 which the applicant desires to be qualified.

1 ~~(e) If the applicant is a person other than an individual, the~~
2 (7) *Two recent photographs of the applicant, of a type*
3 *prescribed by the commissioner, and one classifiable set of his or*
4 *her fingerprints, to be sent to a live scan fingerprint provider as*
5 *directed by the department, if fingerprints are not submitted in*
6 *person with a live scan fingerprinting service provider certified*
7 *by the Department of Justice.*
8 (8) *A verified statement of his or her experience qualifications,*
9 *unless applying for an apprentice independent insurance adjuster*
10 *license.*
11 (9) *Other information, evidence, statements, or documents as*
12 *may be required by the commissioner.*
13 (b) *A business entity application shall be verified and shall*
14 *include all of the following:*
15 (1) *The full legal name and residence address of each of its*
16 *partners, officers, and directors, and its manager.*
17 ~~(f) Two recent photographs of the applicant, of a type prescribed~~
18 ~~by the commissioner, and two classifiable sets of his or her~~
19 ~~fingerprints.~~
20 (2) *The name under which the applicant intends to do business.*
21 (3) *The name of a licensed independent insurance adjuster who*
22 *is responsible for the business entities compliance with this chapter.*
23 (4) *That the applicant paid the fees set forth in Section 14097.*
24 (5) *A statement as to the general nature of the business in which*
25 *the applicant intends to engage.*
26 ~~(g)~~
27 ~~(6) A verified statement of his or her experience qualifications.~~
28 ~~as to the classifications under which the applicant desires to be~~
29 ~~qualified.~~
30 ~~(h) Such other~~
31 (7) *Other information, evidence, statements, or documents as*
32 *may be required by the commissioner.*
33 *SEC. 13. Section 14025 of the Insurance Code is amended to*
34 *read:*
35 *14025. Before an application for a license is granted, the*
36 *applicant, or his or her manager, applicant shall meet all of the*
37 *following: following requirements:*
38 (a) *Be at least 18 years of age.*

1 (b) Not have committed acts or crimes constituting grounds for
2 denial of licensure under ~~Section 480 of the Business Sections~~
3 ~~1668 and Professions Code 1669.~~

4 (c) Shall have had at least two years of experience in adjusting
5 insurance claims or the equivalent thereof as determined by the
6 ~~commissioner.~~ *commissioner, unless applying for an apprentice*
7 *independent insurance adjuster license.*

8 (d) *If the applicant resides in a state that does not license*
9 *independent insurance adjusters, he or she is required to be*
10 *licensed in good standing to designate California as his or her*
11 *home state.*

12 (e) (1) *Completed a 20-hour prelicensing education course of*
13 *study.*

14 (2) *A nonresident applicant currently licensed as a home state*
15 *independent insurance adjuster in another state who has met that*
16 *state's prelicensing education requirements is exempt from*
17 *completing the prelicensing education requirement.*

18 (f) *Successfully passed the examination for the independent*
19 *insurance adjuster license, unless he or she qualifies for an*
20 *exemption in Section 14026.*

21 ~~(e)~~

22 (g) ~~Comply with such~~ *those other qualifications as that the*
23 *commissioner may fix require by rule.* ~~regulation.~~

24 SEC. 14. *Section 14025.1 is added to the Insurance Code, to*
25 *read:*

26 14025.1. (a) *The apprentice independent insurance adjuster*
27 *license is a license to facilitate the experience, education, and*
28 *training necessary to ensure reasonable competency in the*
29 *responsibilities and duties of an independent insurance adjuster.*

30 (b) *An individual applying for an apprentice independent*
31 *insurance adjuster license shall submit an application in a format*
32 *prescribed by the commissioner and shall declare under penalty*
33 *of suspension, revocation, or refusal of the license that the*
34 *statements made in the application are true, correct, and complete*
35 *to the best of the individual's knowledge and belief. Before*
36 *approving the application, the commissioner shall determine that*
37 *the individual meets all of the following:*

38 (1) *Is at least 18 years of age.*

39 (2) *Is a resident of California and has designated California as*
40 *his or her home state.*

1 (3) *Has a business or mailing address in California for the*
2 *acceptance of service of process.*

3 (4) *Has not committed any act that is a ground for suspension,*
4 *revocation, or denial of licensure as set forth in Sections 1668,*
5 *1668.1, and 1669.*

6 (5) *Is trustworthy, reliable, and of good reputation, evidence*
7 *of which may be determined by the commissioner.*

8 (6) *Has paid the fees set forth in subdivision (h) of Section*
9 *14097.*

10 (c) *The apprentice independent insurance adjuster license shall*
11 *be subject to the following terms and conditions:*

12 (1) *The applicant shall submit, with the apprentice independent*
13 *insurance adjuster application, an attestation from a licensed*
14 *independent insurance adjuster certifying that the apprentice will*
15 *be subject to training, direction, and control by the licensed*
16 *independent insurance adjuster and further certifying that the*
17 *licensed independent insurance adjuster assumes responsibility*
18 *for the actions of the apprentice in the apprentice's capacity as*
19 *an independent insurance adjuster.*

20 (2) *The apprentice independent insurance adjuster is only*
21 *authorized to adjust claims in California.*

22 (3) *The apprentice independent insurance adjuster is restricted*
23 *to participation in the investigation, settlement, and negotiation*
24 *of claims subject to the review and final determination of the claim*
25 *by a supervising licensed independent insurance adjuster.*

26 (4) *Compensation of an apprentice independent insurance*
27 *adjuster shall only be on a salaried or hourly basis.*

28 (5) *The apprentice independent insurance adjuster shall not be*
29 *required to take and successfully complete the independent*
30 *insurance adjuster examination to adjust claims as an apprentice*
31 *independent insurance adjuster. At any time during the*
32 *apprenticeship, the apprentice independent insurance adjuster*
33 *may choose to take the examination. If the individual takes and*
34 *successfully completes the independent insurance adjuster exam,*
35 *the apprentice independent insurance adjuster license shall*
36 *automatically terminate and an independent insurance adjuster*
37 *license shall be issued to that individual in its place.*

38 (6) *The apprentice independent insurance adjuster license is*
39 *valid for a period not to exceed 12 months and is nonrenewable.*

1 (7) *The licensee shall be subject to suspension, revocation, or*
2 *denial pursuant to Sections 1668, 1668.1, and 1669.*

3 (8) *The applicant shall submit two recent photographs of the*
4 *applicant, of a type prescribed by the commissioner, and one*
5 *classifiable set of his or her fingerprints, to be sent to a live scan*
6 *fingerprint provider as directed by the department, if fingerprints*
7 *are not submitted in person with a live scan fingerprinting service*
8 *provider certified by the Department of Justice.*

9 *SEC. 15. Section 14026 of the Insurance Code is repealed.*

10 ~~14026. The commissioner may require an applicant, or his or~~
11 ~~her manager, to demonstrate his or her qualifications by a written~~
12 ~~or oral examination, or a combination of both.~~

13 *SEC. 16. Section 14026 is added to the Insurance Code, to*
14 *read:*

15 *14026. (a) An applicant for an independent insurance adjuster*
16 *license, unless applying for an apprentice independent insurance*
17 *adjuster license or crop insurance adjuster license, shall pass a*
18 *written examination.*

19 *(1) The examination shall test the knowledge of the applicant*
20 *concerning the duties and responsibilities of an independent*
21 *insurance adjuster and this code.*

22 *(2) An applicant applying for an examination shall remit a*
23 *nonrefundable fee as prescribed by the commissioner in Section*
24 *14097.*

25 *(b) An individual who applies for an independent insurance*
26 *adjuster license in California who holds a home state license in*
27 *another state as an independent insurance adjuster shall not be*
28 *required to complete the examination if he or she successfully*
29 *passed an examination as a condition of receiving an independent*
30 *insurance adjuster license in his or her home state. This exemption*
31 *applies to individuals who are currently licensed in their home*
32 *state or if the home state license expired and the application is*
33 *received by the commissioner within 90 days of expiration.*

34 *(c) An individual who applies for an apprentice independent*
35 *insurance adjuster license pursuant to Section 14025.1, and who*
36 *adjusts claims in that capacity, shall not be required to take and*
37 *successfully complete the independent insurance adjuster*
38 *examination.*

39 *SEC. 17. Section 14027 of the Insurance Code is repealed.*

1 14027. Payment of the application fee prescribed by this chapter
 2 entitles an applicant, or his or her manager, to one examination
 3 without further charge. If the person fails to pass the examination,
 4 he or she shall not be eligible for any subsequent examination
 5 except upon payment of the reexamination fee prescribed by this
 6 chapter for each such subsequent examination.

7 *SEC. 18. Section 14028 of the Insurance Code is amended to*
 8 *read:*

9 14028. After a ~~hearing~~ *hearing*, the commissioner may deny
 10 a license unless the application makes a showing satisfactory to
 11 the commissioner that the applicant, if an individual, has not, or
 12 if the applicant is a person other than an individual, that its manager
 13 and each of its officers and partners have ~~not~~ *not done any of the*
 14 *following:*

15 (a) ~~Committed any acts or crimes constituting grounds for denial~~
 16 ~~of licensure under Section 480 of the Business and Professions~~
 17 ~~Code.~~

18 (b)

19 (a) Been refused a license under this chapter or had a license
 20 revoked.

21 (e)

22 (b) Been an officer, partner, or manager of any person who has
 23 been refused a license under this chapter or whose license has been
 24 revoked.

25 (d)

26 (c) While unlicensed committed, or aided and abetted the
 27 commission of, any act for which a license is required by this
 28 chapter.

29 (e)

30 (d) Committed any act or crime constituting grounds for denial
 31 of license *licensure* under Section 1668.

32 *SEC. 19. Section 14029 of the Insurance Code is repealed.*

33 14029. (a) ~~The business of each licensee shall be operated~~
 34 ~~under the active direction, control, charge, or management of the~~
 35 ~~licensee, if the licensee is qualified, or the person who has qualified~~
 36 ~~to act as the licensee's manager, if the licensee is not qualified.~~

37 (b) ~~No person shall act as a manager of a licensee until he or~~
 38 ~~she has complied with each of the following:~~

1 ~~(1) Demonstrated his or her qualifications by a written or oral~~
2 ~~examination, or a combination of both, if required by the~~
3 ~~commissioner.~~

4 ~~(2) Made a satisfactory showing to the commissioner that he or~~
5 ~~she has the qualifications prescribed by Section 14025 and that~~
6 ~~none of the facts stated in Section 14028 or 14028.5 exist as to~~
7 ~~him or her.~~

8 ~~(e) If the manager, who has qualified as provided in this section,~~
9 ~~ceases for any reason whatsoever to be connected with the licensee~~
10 ~~to whom the license is issued, the licensee shall notify the~~
11 ~~commissioner in writing 30 days from the cessation. If notice is~~
12 ~~given, the license shall remain in force for a reasonable length of~~
13 ~~time to be determined by the rules of the commissioner pending~~
14 ~~the qualifications, as provided in this chapter, of another manager.~~
15 ~~If the licensee fails to notify the commissioner within the 30-day~~
16 ~~period, his or her license shall be subject to suspension or~~
17 ~~revocation and may be reinstated only upon the filing of an~~
18 ~~application for reinstatement, payment of the reinstatement fee, if~~
19 ~~any is due, and the qualification of a manager as provided herein.~~

20 ~~(d) Every manager shall renew his or her authority by satisfying~~
21 ~~the requirements of Article 8 (commencing with Section 14090).~~

22 *SEC. 20. Section 14029 is added to the Insurance Code, to*
23 *read:*

24 *14029. Each organization licensed under this chapter shall*
25 *designate an individual also licensed as an independent insurance*
26 *adjuster to be responsible for the organization's compliance with*
27 *state law.*

28 *SEC. 21. Section 14030 of the Insurance Code is repealed.*

29 ~~14030. Whenever the individual on the basis of whose~~
30 ~~qualifications a license under this chapter has been obtained ceases~~
31 ~~to be connected with the licensee for any reason whatever, the~~
32 ~~business may be carried on for such temporary period and under~~
33 ~~such terms and conditions as the commissioner shall provide by~~
34 ~~regulation.~~

35 *SEC. 22. Section 14031 of the Insurance Code is amended to*
36 *read:*

37 ~~14031. Whenever a hearing is held under this chapter to~~
38 ~~determine whether an application for a license should be granted~~
39 ~~or to determine the qualifications of a licensee's manager, the~~
40 ~~proceedings shall be conducted in accordance with Chapter 5~~

1 (commencing with Section 11501) of Part 1 of Division 3 of Title
 2 2 of the Government Code, and the commissioner shall have all
 3 of the powers granted therein.

4 *SEC. 23. Section 14032 of the Insurance Code is amended to*
 5 *read:*

6 14032. The form and content of the license shall be determined
 7 by the ~~commissioner in accordance with Section 164 of the~~
 8 ~~Business and Professions Code.~~ *commissioner.*

9 *SEC. 24. Section 14037 of the Insurance Code is repealed.*

10 ~~14037. A licensee shall at all times be legally responsible for~~
 11 ~~the good conduct in the business of each of his or her employees~~
 12 ~~or agents, including his or her manager.~~

13 *SEC. 25. Section 14038 of the Insurance Code is amended to*
 14 *read:*

15 14038. (a) Any licensee or officer, ~~director, partner, or manager~~
 16 ~~director, or partner~~ of a licensee may divulge to any law
 17 enforcement officer or district attorney, or to his or her
 18 representative, any information he or she may acquire as to any
 19 criminal offense, but he or she shall not divulge to any other person,
 20 except as he or she may be required by law to do so, any
 21 information acquired by him or her except at the direction of the
 22 employer or client for whom the information was obtained.

23 (b) ~~No~~ A licensee or officer, ~~director, partner, manager, or~~
 24 ~~employee~~ *director, or partner* of a licensee shall *not* knowingly
 25 make any false report to his or her employer or client for whom
 26 information was being obtained.

27 (c) ~~No~~ A written report shall *not* be submitted to a client except
 28 by the licensee, ~~qualifying manager, or a person authorized by one~~
 29 ~~or either of them, and such person submitting the report~~ *licensee*
 30 *who* shall exercise diligence in ascertaining whether or not the
 31 facts and information in ~~such a~~ *that* report are true and correct.

32 (d) ~~No licensee, A licensee~~ or officer, ~~director, partner, manager,~~
 33 ~~or employee~~ *director, or partner* of a licensee shall *not* use a badge
 34 in connection with the official activities of the licensee's business.

35 (e) ~~No licensee, A licensee~~ or officer, ~~director, partner, manager,~~
 36 ~~or of a licensee,~~ *director, or partner of a licensee* shall *not* use a
 37 title, ~~or~~ wear a uniform, ~~or~~ use an insignia, ~~or~~ use an identification
 38 card, or make any statement with the intent to give an impression
 39 that he or she is connected in any way with the federal government,

1 a state government, or any political subdivision of a state
2 government.

3 (f) ~~No licensee, A licensee~~ or officer, ~~director, partner, manager,~~
4 ~~or employee~~ *director, or partner* of a licensee, shall *not* enter any
5 private building or portion thereof without the consent of the owner
6 or of the person in legal possession thereof.

7 (g) ~~No~~ A licensee shall *not* appear as an assignee party in any
8 proceeding involving claim and delivery, replevin, or other
9 possessory action, action to foreclose a chattel mortgage,
10 mechanic's lien, materialman's lien, or any other lien.

11 (h) ~~No~~ A licensee shall *not* permit an ~~employee~~ or agent in his
12 or her own name to advertise, engage clients, furnish reports, or
13 present bills to clients, or in any manner whatever to conduct
14 business for which a license is required under this chapter. All
15 business of the licensee shall be conducted in the name of and
16 under the control of the licensee.

17 (i) ~~No~~ A licensee acting as an independent automobile damage
18 appraiser or adjuster or as an automobile insurance claims adjuster,
19 ~~appraiser~~ *appraiser*, or representative shall *not* receive any financial
20 benefit from an automobile repair facility. "Financial benefit"
21 means the receiving of any commission or gratuity, discount on
22 repair costs, free repairs, employment by a repair facility, or
23 possession of more than 3 percent direct ownership in an
24 automobile repair facility located in this state.

25 *SEC. 26. Section 14039 of the Insurance Code is amended to*
26 *read:*

27 14039. ~~No~~ A person licensed as an *independent* insurance
28 adjuster shall *not* do any of the following:

29 (a) Fail to disclose his or her full financial interest in a contract
30 or agreement executed by him or her for the adjustment of a claim
31 prior to the execution thereof.

32 (b) Use any misrepresentation to solicit a contract or agreement
33 to adjust a claim.

34 (c) Solicit or accept remuneration from, or have a financial
35 interest exceeding 3 percent in, any salvage, repair, or other ~~firm,~~
36 ~~which firm~~ *that* obtains business in connection with any claim
37 ~~which~~ *that* he or she has a contract or agreement to adjust.

38 *SEC. 27. Section 14040 of the Insurance Code is amended to*
39 *read:*

1 14040. Any badge or cap insignia worn by a person who is a
 2 licensee, officer, ~~director, partner, manager, or employee director,~~
 3 ~~or partner~~ of a licensee shall be of a design approved by the
 4 commissioner, and shall bear on its face a distinctive word
 5 indicating the name of the licensee and an employee number by
 6 ~~which such person may be identified by the licensee.~~

7 *SEC. 28. Section 14042 of the Insurance Code is amended to*
 8 *read:*

9 14042. No

10 (a) A licensee shall *not* conduct a business under a fictitious or
 11 other business name unless and until he or she has obtained the
 12 written authorization of the commissioner to do so.

13 (b) The commissioner shall not authorize the use of a fictitious
 14 or other business name ~~which~~ *that* is so similar to that of a public
 15 officer or agency or of that used by another licensee that the public
 16 may be confused or misled thereby.

17 (c) The authorization shall require, as a condition precedent to
 18 the use of any fictitious name, that the licensee comply with Section
 19 ~~1724.5 of this code and Chapter 5 (commencing with Section~~
 20 ~~17900) of Part 3 of Division 7 of the Business and Professions~~
 21 ~~Code. 1724.5.~~

22 (d) A licensee desiring to conduct his or her business under
 23 more than one fictitious business name shall obtain the
 24 authorization of the commissioner in the manner prescribed in this
 25 section for the use of ~~each such~~ *that* name.

26 (e) The licensee shall pay a fee of ten dollars (\$10) for each
 27 authorization to use an additional fictitious business name and for
 28 each change in the use of a fictitious business name. If the original
 29 license is issued in a nonfictitious name and authorization is
 30 requested to have the license reissued in a fictitious business name,
 31 the licensee shall pay a fee of twelve dollars (\$12) for ~~such that~~
 32 authorization.

33 *SEC. 29. Section 14061 of the Insurance Code is amended to*
 34 *read:*

35 14061. The commissioner may suspend or revoke a license
 36 issued under this chapter or may issue a restricted license in
 37 accordance with Section 14026.5 if he or she determines that the
 38 ~~licensee, or his or her manager, if an individual, or if licensee or~~
 39 ~~if~~ the licensee is a person other than an individual, that any of its

1 officers, directors, partners, or its ~~manager, has:~~ *designated*
2 *responsible person has done any of the following:*

3 (a) Made any false statement or given any false information in
4 connection with an application for a license or a renewal or
5 reinstatement of a license.

6 (b) Violated any provisions of this chapter.

7 (c) Violated any rule of the commissioner adopted pursuant to
8 the authority contained in this chapter.

9 (d) Been convicted of any crime substantially related to the
10 qualifications, ~~functions~~ *functions*, and duties of the holder of the
11 registration or license in question.

12 (e) Impersonated, or permitted or aided and abetted an employee
13 to ~~impersonate~~ *impersonate*, a law enforcement officer or employee
14 of the United States of America, or of any state or political
15 subdivision thereof.

16 (f) Committed or permitted any employee to commit any act,
17 while the license was expired ~~which~~ *that* would be cause for the
18 suspension or revocation of a license, or grounds for the denial of
19 an application for a license.

20 (g) Willfully failed or refused to render to a client services or
21 a report as agreed between the parties and for which compensation
22 has been paid or tendered in accordance with the agreement of the
23 parties.

24 (h) Committed assault, battery, or kidnapping, or used force or
25 violence on any person, without proper justification.

26 (i) Knowingly ~~violated,~~ *violated* or advised, encouraged, or
27 assisted the violation of any court order or injunction in the course
28 of business as a licensee.

29 (j) Acted as a runner or capper for any attorney.

30 (k) Committed any act ~~which~~ *that* is a ground for denial of an
31 application for license under this chapter.

32 (l) Purchased, possessed, or transported any tear gas weapon
33 except as authorized by law. A violation of this subdivision may
34 be punished by the suspension of a license for a period to be
35 determined by the commissioner.

36 *SEC. 30. Section 14063 of the Insurance Code is amended to*
37 *read:*

38 14063. The commissioner may suspend or revoke a license
39 issued under this chapter or may issue a restricted license in
40 accordance with Section 14026.5 if the commissioner determines

1 that the licensee, ~~or his or her manager~~, if an individual, or if the
 2 licensee is a person other than an individual, that any of its officers,
 3 directors, partners, or its ~~manager~~, *has designated responsible*
 4 *person has done any of the following:*

5 (a) Used any letterhead, advertisement, or other printed matter,
 6 or in any matter whatever represented that he or she is an
 7 instrumentality of the federal government, *or of* a state or any
 8 political subdivision thereof.

9 (b) Used a name different from that under which he or she is
 10 currently licensed in any advertisement, solicitation, or contract
 11 for business.

12 *SEC. 31. Section 14064 of the Insurance Code is amended to*
 13 *read:*

14 14064. (a) The commissioner may suspend or revoke a license
 15 issued under this chapter or may issue a restricted license in
 16 accordance with Section 14026.5 if the commissioner determines
 17 that the licensee, ~~or his or her manager~~, if an individual, or if the
 18 licensee is a person other than an individual, that any of its officers,
 19 directors, partners, or its ~~manager~~, *designated responsible person*
 20 has committed any act in the course of the licensee’s business
 21 constituting dishonesty or fraud.

22 (b) “Dishonesty or fraud” as used in this section includes, in
 23 addition to other acts not specifically enumerated herein, all of the
 24 following:

25 (a)

26 (1) Knowingly making a false statement relating to evidence or
 27 information obtained in the course of employment, or knowingly
 28 publishing a slander or a libel in the course of business.

29 (b)

30 (2) Using illegal means in the collection or attempted collection
 31 of a debt or obligation.

32 (c)

33 (3) Manufacture of evidence.

34 (d)

35 (4) Acceptance of employment adverse to a client or former
 36 client relating to a matter with respect to which the licensee has
 37 obtained confidential information by reason of or in the course of
 38 his or her employment by ~~such~~ *that* client or former client.

39 (e)

1 (5) Impersonating, or permitting or aiding and abetting an
2 employee to ~~impersonate~~ *impersonate*, a law enforcement officer
3 or employee of the United States of America, or of any state or
4 political subdivision thereof.

5 *SEC. 32. Section 14078 of the Insurance Code is repealed.*

6 ~~14078. As used in this article, “nonresident” means a person~~
7 ~~who is not a resident of this state at the time of the performance~~
8 ~~of the act referred to in Section 14071.~~

9 *SEC. 33. Section 14078 is added to the Insurance Code, to*
10 *read:*

11 *14078. (a) Unless refused licensure pursuant to Sections 14060*
12 *to 14065, inclusive, a nonresident person shall receive a*
13 *nonresident independent insurance adjuster license if all of the*
14 *following apply:*

15 *(1) The applicant is currently licensed in good standing as an*
16 *independent insurance adjuster in his, her, or its resident or home*
17 *state.*

18 *(2) The applicant paid the fees required by Section 14097.*

19 *(3) The applicant submitted to the commissioner the completed*
20 *application for licensure.*

21 *(4) The applicant’s home state awards nonresident independent*
22 *insurance adjuster licenses to residents of California on the same*
23 *basis.*

24 *(b) The commissioner may verify the independent insurance*
25 *adjuster’s licensing status through any appropriate database,*
26 *including the Producer Database maintained by the National*
27 *Association of Insurance Commissioners, its affiliates or*
28 *subsidiaries, or may request certification of good standing.*

29 *(c) As a condition to the continuation of a nonresident*
30 *independent insurance adjuster license, the licensee shall maintain*
31 *a resident independent insurance adjuster license in his, her, or*
32 *its home state.*

33 *(1) The nonresident independent insurance adjuster license*
34 *issued under this chapter shall terminate and be surrendered*
35 *immediately to the commissioner if the resident independent*
36 *insurance adjuster license terminates for any reason, unless the*
37 *termination is due to the independent insurance adjuster being*
38 *issued a new resident independent insurance adjuster license in*
39 *his, her, or its new home state.*

1 (2) *The nonresident independent insurance adjuster license*
 2 *shall terminate if the person’s home state does not award*
 3 *nonresident independent insurance adjuster licenses to residents*
 4 *of California on the same basis.*

5 (3) (A) *The licensee is required to give notice of resident*
 6 *independent insurance adjuster license termination to any state*
 7 *that issued a nonresident independent insurance adjuster license.*

8 (B) *The notice is required to be given within 30 days of the*
 9 *termination date. If the resident independent insurance adjuster*
 10 *license was terminated for change in resident home state, then the*
 11 *notice is required to include both the previous and current address.*

12 (4) *Maintaining a resident independent insurance adjuster*
 13 *license is required for the nonresident independent insurance*
 14 *adjuster license to remain valid.*

15 SEC. 34. *Section 14079 is added to the Insurance Code, to*
 16 *read:*

17 14079. (a) *An independent insurance adjuster shall be honest*
 18 *and fair in all communications with the insured, the insurer, and*
 19 *the public.*

20 (b) *An independent insurance adjuster shall provide*
 21 *policyholders and claimants with prompt and knowledgeable*
 22 *service and courteous, fair, and objective treatment at all times.*

23 (c) *An independent insurance adjuster shall not give legal advice*
 24 *and shall not deal directly with any policyholder or claimant who*
 25 *is represented by legal counsel without the consent of the legal*
 26 *counsel involved.*

27 (d) *An independent insurance adjuster shall comply with all*
 28 *local, state, and federal privacy and information security laws.*

29 (e) *An independent insurance adjuster shall identify himself or*
 30 *herself as an independent insurance adjuster and, if applicable,*
 31 *shall identify his or her employer when dealing with any*
 32 *policyholder or claimant.*

33 (f) *An independent insurance adjuster shall not have any*
 34 *financial interest in any adjustment or shall not acquire for himself,*
 35 *herself, or any person any interest or title in salvage, without first*
 36 *receiving written authority from the principal.*

37 SEC. 35. *Section 14080 of the Insurance Code is amended to*
 38 *read:*

39 14080. *Any person who knowingly falsifies the fingerprints*
 40 *or photographs submitted under paragraph (7) of subdivision-(f)*

1 (a) of Section 14024 or paragraph (8) of subdivision (c) of Section
2 14025.1 is guilty of a felony. Any person who violates any of the
3 other provisions of this chapter is guilty of a misdemeanor
4 punishable by fine not to exceed five hundred dollars (\$500), or
5 by imprisonment in the county jail not to exceed one year, or by
6 both ~~such~~ the fine and imprisonment.

7 SEC. 36. Section 14090.1 of the Insurance Code is amended
8 to read:

9 14090.1. (a) An individual who holds an *independent* insurance
10 adjuster license and who is not exempt under subdivision (b) shall
11 satisfactorily complete a minimum of 24 hours, of which three
12 hours are to be in ethics, of continuing education courses pertinent
13 to the duties and responsibilities of an *independent* insurance
14 adjuster license ~~reported~~ and shall report the completion of this
15 coursework to the insurance commissioner on a biennial basis in
16 conjunction with his or her license renewal cycle.

17 (b) This section does not apply to any of the following:

18 (1) A licensee not licensed for one full year prior to the end of
19 the applicable continuing education biennium.

20 (2) A licensee holding a nonresident *independent* insurance
21 adjuster license who has met the continuing education requirements
22 of his or her designated ~~resident~~ home state.

23 (3) An individual licensed as an *independent* insurance adjuster
24 and as a property or casualty broker-agent, pursuant to Section
25 1625, who has met the continuing education requirements specified
26 in Section 1749.3.

27 (4) An individual licensed as an *apprentice independent*
28 insurance adjuster pursuant to Section 14025.1.

29 SEC. 37. Section 14097 of the Insurance Code is amended to
30 read:

31 14097. The amount of fees prescribed by this chapter, unless
32 otherwise fixed, is that fixed in the following schedule:

33 (a) The application fee for *the qualifying examination* for an
34 original license is twenty-nine dollars (\$29).

35 (b) The application fee for an original branch office certificate
36 is eighteen dollars (\$18).

37 (c) The fee for an original license *application* is an amount equal
38 to the renewal fee in effect on the last regular renewal date before
39 the date on which the license is issued, except that, if the license
40 will expire less than one year after its issuance, then the fee is an

1 amount equal to 50 percent of the renewal fee in effect on the last
 2 regular renewal date before the date on which the license is issued.
 3 The commissioner may, by appropriate regulation, provide for the
 4 waiver or refund of the initial license fee where the license is issued
 5 less than 45 days before the date on which it will expire.

6 (d) The renewal fee shall be fixed by the commissioner as
 7 follows:

8 (1) For a license as an *independent* insurance adjuster, not more
 9 than one hundred eighteen dollars (\$118).

10 (2) For a branch office certificate, not more than twenty-four
 11 dollars (\$24).

12 (e) The application and license fee for classifications prescribed
 13 by the commissioner, in addition to those provided for in this
 14 chapter, and the application and license fees for a change in the
 15 type of business organization of a licensee, shall be in the amount
 16 prescribed by rule and regulation of the commissioner.

17 (f) The delinquency fee shall be 50 percent of the renewal fee
 18 in effect on the date of ~~expiration, but not more than twenty-nine~~
 19 ~~dollars (\$29).~~ *expiration.*

20 (g) The fee for reexamination of an applicant ~~or his manager~~ is
 21 twelve dollars (\$12).

22 (h) *The application fee for an apprentice independent insurance*
 23 *adjuster license shall be fixed by the commissioner by regulation*
 24 *and shall be reasonably related to the actual cost to the department*
 25 *in performing its duties under this chapter.*

26 *SEC. 38. Section 14099 of the Insurance Code is amended to*
 27 *read:*

28 14099. Application or license ~~fee fees~~ shall not be refunded
 29 ~~Section 158 of the Business and Professions Code; pursuant to~~
 30 ~~Section 1751.5.~~

31 *SEC. 39. No reimbursement is required by this act pursuant*
 32 *to Section 6 of Article XIII B of the California Constitution because*
 33 *the only costs that may be incurred by a local agency or school*
 34 *district will be incurred because this act creates a new crime or*
 35 *infraction, eliminates a crime or infraction, or changes the penalty*
 36 *for a crime or infraction, within the meaning of Section 17556 of*
 37 *the Government Code, or changes the definition of a crime within*
 38 *the meaning of Section 6 of Article XIII B of the California*
 39 *Constitution.*

1 SECTION 1. ~~Section 103875 of the Health and Safety Code~~
2 ~~is amended to read:~~

3 ~~103875. (a) The department shall conduct a program of~~
4 ~~epidemiological assessments of the incidence of cancer. The~~
5 ~~program shall encompass all areas of the state for which cancer~~
6 ~~incidence data are available. The program shall include the~~
7 ~~monitoring of cancers associated with suspected carcinogens~~
8 ~~encountered by the general public both in occupational locations~~
9 ~~and in the environment generally.~~

10 ~~(b) The program shall be under the direction of the State Public~~
11 ~~Health Officer, who may enter into contracts as are necessary for~~
12 ~~the conduct of the program and may accept, on behalf of the state,~~
13 ~~grants of public or private funds for the program. The department~~
14 ~~shall analyze available incidence data and prepare reports and~~
15 ~~perform studies as necessary to identify cancer hazards to the~~
16 ~~public health and their remedies.~~

17 ~~(c) The department shall analyze data collected pursuant to the~~
18 ~~program to assess, measure, and publicly report on the quality of~~
19 ~~cancer care in the state. In assessing and measuring the quality of~~
20 ~~cancer care in the state, the department shall define and identify~~
21 ~~oncology providers. In publicly reporting on the quality of cancer~~
22 ~~care in the state, the department shall identify oncology providers,~~
23 ~~but not individual cancer patients. The department may contract~~
24 ~~with an entity to assess, measure, and publicly report on the quality~~
25 ~~of cancer care in the state.~~

26 ~~(d) The department shall develop a system for routine, automated~~
27 ~~linkages between data collected pursuant to the program and public~~
28 ~~and private health insurance payer cancer claims data. The State~~
29 ~~Public Health Officer shall convene a cancer care stakeholder~~
30 ~~committee, including public and private payer representatives and~~
31 ~~persons with appropriate technical experience, to study and make~~
32 ~~recommendations for developing the automated linkage system.~~
33 ~~The State Public Health Officer may contract with entities or~~
34 ~~persons to provide the committee with appropriate technical~~
35 ~~expertise.~~

36 ~~(e) It is the intent of the Legislature that an appropriation be~~
37 ~~included in each Budget Act in an amount sufficient to provide~~
38 ~~for the annual cost of the program. It is further the intent of the~~
39 ~~Legislature that the cancer care quality measures be available for~~
40 ~~the public to use to improve health care and population health as~~

1 it relates to the prevention and treatment of cancer, including the
2 cancer patients themselves.

3 ~~SEC. 2. Section 103885 of the Health and Safety Code is~~
4 ~~amended to read:~~

5 ~~103885. (a) The department shall establish a statewide system~~
6 ~~for the collection of information determining the incidence of~~
7 ~~cancer, using population-based cancer registries modeled after the~~
8 ~~Cancer Surveillance Program of Orange County. The department~~
9 ~~shall also identify and include in the statewide system, cancer care~~
10 ~~quality measures for use in public reporting. As of the effective~~
11 ~~date of this section the department shall begin phasing in the~~
12 ~~statewide cancer reporting system. By July 1, 1988, all county or~~
13 ~~regional registries shall be implemented or initiated. By July 1,~~
14 ~~1990, the statewide cancer reporting system shall be fully~~
15 ~~operational. Within 60 days of the effective date of this section,~~
16 ~~the State Public Health Officer shall submit an implementation~~
17 ~~and funding schedule to the Legislature.~~

18 ~~(b) The department may designate any demographic parts of~~
19 ~~the state as regional cancer incidence reporting areas and may~~
20 ~~establish regional cancer registries, with the responsibility and~~
21 ~~authority to carry out the intent of this section in designated areas.~~
22 ~~Designated regional registries shall provide, on a timely basis,~~
23 ~~cancer incidence data, as required by the department. The~~
24 ~~department may establish a competitive process to receive~~
25 ~~applications for, and issue, the award of a contract, grant, or~~
26 ~~allocation of funds, including, but not limited to, a cooperative~~
27 ~~agreement, subvention agreement, or any other agreement allowed~~
28 ~~by law, to an agency, including, but not limited to, a health systems~~
29 ~~agency, single county health department, multicounty health~~
30 ~~department grouping, or nonprofit professional association to~~
31 ~~operate the statewide cancer reporting system and to enter into~~
32 ~~contracts, or issue grants or funding allocations to other agencies~~
33 ~~representing a designated cancer reporting region for the purposes~~
34 ~~of collecting and collating cancer incidence data. The award of~~
35 ~~these contracts, grants, or funding allocations shall be exempt from~~
36 ~~Part 2 (commencing with Section 10100) of Division 2 of the~~
37 ~~Public Contract Code. The department shall include appropriate~~
38 ~~terms and conditions in a contract, grant, or funding allocation to~~
39 ~~ensure the proper use of state funds, including provision for~~
40 ~~reimbursement of allowable costs, financial reporting, program~~

1 performance reporting, monitoring of subgrants, subcontracts, or
2 suballocations to an agency representing a designated cancer
3 reporting region, retention and access requirements for records,
4 data use and management, independent auditing, termination, and
5 disposition of assets acquired under the contract, grant, or funding
6 allocation.

7 (e) The State Public Health Officer shall designate cancer as a
8 disease required to be reported in the state or any demographic
9 parts of the state in which cancer information is collected under
10 this section. All cancers diagnosed or treated in the reporting area
11 shall thereafter be reported to the representative of the department
12 authorized to compile the cancer data, or any individual, agency,
13 or organization designated to cooperate with that representative.

14 (d) (1) A hospital or other facility providing therapy to cancer
15 patients within an area designated as a cancer reporting area shall
16 report each case of cancer to the department or the authorized
17 representative of the department in a format prescribed by the
18 department. If the hospital or other facility fails to report in a
19 format prescribed by the department, the department's authorized
20 representative may access the information from the hospital or the
21 facility and report it in the appropriate format. In these cases, the
22 hospital or other health facility shall reimburse the department or
23 the authorized representative for its cost to access and report the
24 information.

25 (2) A physician and surgeon, dentist, podiatrist, or other health
26 care practitioner diagnosing or providing treatment for cancer
27 patients shall report each cancer case to the department or the
28 authorized representative of the department except for those cases
29 directly referred to a treatment facility or those previously admitted
30 to a treatment facility for diagnosis or treatment of that instance
31 of cancer.

32 (e) A hospital or other facility that is required to reimburse the
33 department or its authorized representative for the cost to access
34 and report the information pursuant to subdivision (d) shall provide
35 payment to the department or its authorized representative within
36 60 days of the date this payment is demanded. In the event a
37 hospital or other facility fails to make the payment to the
38 department or its authorized representative within 60 days of the
39 date the payment is demanded, the department or its authorized
40 representative may, at its discretion, assess a late fee not to exceed

1 1½ percent per month of the outstanding balance. Further, in the
 2 event that the department or its authorized representative takes a
 3 legal action to recover its costs and any associated fees, and the
 4 department or its authorized representative receives a judgment in
 5 its favor, the hospital or other facility shall also reimburse the
 6 department or its authorized representative for any additional costs
 7 it incurred to pursue the legal action. Late fees and payments made
 8 to the department by hospitals or other facilities pursuant to this
 9 subdivision shall be considered as reimbursements of the additional
 10 costs incurred by the department.

11 ~~(f) All physicians and surgeons, hospitals, outpatient clinics,~~
 12 ~~nursing homes and all other facilities, individuals, or agencies~~
 13 ~~providing diagnostic or treatment services to patients with cancer~~
 14 ~~shall grant to the department or the authorized representative access~~
 15 ~~to all records that would identify cases of cancer or would establish~~
 16 ~~characteristics of the cancer, treatment of the cancer, or medical~~
 17 ~~status of any identified cancer patient. Willful failure to grant~~
 18 ~~access to those records shall be punishable by a fine of up to five~~
 19 ~~hundred dollars (\$500) each day access is refused. Fines collected~~
 20 ~~pursuant to this subdivision shall be deposited in the General Fund.~~

21 ~~(g) (1) Except as otherwise provided in this section, all~~
 22 ~~information collected pursuant to this section shall be confidential.~~
 23 ~~For purposes of this section, this information shall be referred to~~
 24 ~~as “confidential information.”~~

25 ~~(2) The department and any regional cancer registry designated~~
 26 ~~by the department shall use the information to determine the~~
 27 ~~sources of malignant neoplasms and evaluate measures designed~~
 28 ~~to eliminate, alleviate, or ameliorate their effect, and assess and~~
 29 ~~publicly report on the quality of cancer care in the state.~~

30 ~~(3) The following persons who meet qualifications determined~~
 31 ~~by the department and who agree, in writing, to maintain~~
 32 ~~confidentiality, may be authorized access to confidential~~
 33 ~~information:~~

34 ~~(A) A person with a valid scientific background who is engaged~~
 35 ~~in demographic, epidemiologic, quality of care assessment or~~
 36 ~~improvement, or other similar studies related to health.~~

37 ~~(B) A person engaged in the dissemination of data to the public~~
 38 ~~as it relates to the prevention and treatment of cancer.~~

1 ~~(C) A person engaged in improving health care and population~~
2 ~~health as it relates to the treatment and prevention of cancer,~~
3 ~~including cancer patients themselves.~~

4 ~~(4) The department and any regional cancer registry designated~~
5 ~~by the department may enter into agreements to furnish confidential~~
6 ~~information to other states' cancer registries, federal cancer control~~
7 ~~agencies, local health officers, or health researchers for the~~
8 ~~purposes of determining the sources of cancer and evaluating~~
9 ~~measures designed to eliminate, alleviate, or ameliorate their effect,~~
10 ~~and assessing and publicly reporting on the quality of cancer care~~
11 ~~in the state. Before confidential information is disclosed to those~~
12 ~~agencies, officers, researchers, or out-of-state registries, the~~
13 ~~requesting entity shall agree in writing to maintain the~~
14 ~~confidentiality of the information, and in the case of researchers,~~
15 ~~shall also do both of the following:~~

16 ~~(A) Obtain approval of their committee for the protection of~~
17 ~~human subjects established in accordance with Part 46~~
18 ~~(commencing with Section 46.101) of Title 45 of the Code of~~
19 ~~Federal Regulations.~~

20 ~~(B) Provide documentation to the department that demonstrates~~
21 ~~to the department's satisfaction that the entity has established the~~
22 ~~procedures and ability to maintain the confidentiality of the~~
23 ~~information.~~

24 ~~(5) Notwithstanding any other law, disclosure authorized by~~
25 ~~this section shall include only the information necessary for the~~
26 ~~stated purpose of the requested disclosure, used for the approved~~
27 ~~purpose, and not be further disclosed.~~

28 ~~(6) The furnishing of confidential information to the department~~
29 ~~or its authorized representative in accordance with this section~~
30 ~~shall not expose any person, agency, or entity furnishing~~
31 ~~information to liability, and shall not be considered a waiver of~~
32 ~~any privilege or a violation of a confidential relationship.~~

33 ~~(7) The department shall maintain an accurate record of all~~
34 ~~persons who are given access to confidential information. The~~
35 ~~record shall include: the name of the person authorizing access;~~
36 ~~name, title, address, and organizational affiliation of persons given~~
37 ~~access; dates of access; and the specific purpose for which~~
38 ~~information is to be used. The record of access shall be open to~~
39 ~~public inspection during normal operating hours of the department.~~

1 ~~(8) Notwithstanding any other law, no part of the confidential~~
 2 ~~information shall be available for subpoena, nor shall it be~~
 3 ~~disclosed, discoverable, or compelled to be produced in a civil,~~
 4 ~~criminal, administrative, or other proceeding, nor shall this~~
 5 ~~information be deemed admissible as evidence in a civil, criminal,~~
 6 ~~administrative, or other tribunal or court for any reason.~~

7 ~~(9) Nothing in this subdivision shall prohibit the publication by~~
 8 ~~the department of reports and statistical compilations that do not~~
 9 ~~in any way identify individual cases or individual sources of~~
 10 ~~information.~~

11 ~~(10) Notwithstanding the restrictions in this subdivision, the~~
 12 ~~individual to whom the information pertains shall have access to~~
 13 ~~his or her own information in accordance with Chapter 1~~
 14 ~~(commencing with Section 1798) of Title 1.8 of the Civil Code.~~

15 ~~(h) For the purpose of this section, "cancer" means either of the~~
 16 ~~following:~~

17 ~~(1) All malignant neoplasms, regardless of the tissue of origin,~~
 18 ~~including malignant lymphoma, Hodgkins disease, and leukemia,~~
 19 ~~but excluding basal cell and squamous cell carcinoma of the skin.~~

20 ~~(2) All primary intracranial and central nervous system (CNS)~~
 21 ~~tumors occurring in the following sites, irrespective of histologic~~
 22 ~~type: brain, meninges, spinal cord, caudae equina, cranial nerves~~
 23 ~~and other parts of the CNS, pituitary gland, pineal gland, and~~
 24 ~~craniopharyngeal duct.~~

25 ~~(i) Nothing in this section shall preempt the authority of facilities~~
 26 ~~or individuals providing diagnostic or treatment services to patients~~
 27 ~~with cancer to maintain their own facility-based cancer registries.~~

28 ~~(j) It is the intent of the Legislature that the department, in~~
 29 ~~establishing a system pursuant to this section, maximize the use~~
 30 ~~of available federal funds.~~